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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Ronnie B. Acors

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OLIFF & BERRIDGE, PLC

P.O. BOX 320850

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EXAMINER

GOFF II, JOHN L

ART UNIT

PAPER NUMBER

1791

NOTIFICATION DATE

DELIVERY MODE

02/08/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

OfficeAction25944@oliff.com

jarmstrong@oliff.com

Office Action Summary	Application No. 10/581,700	Applicant(s) ACORS, RONNIE B.	
	Examiner John L. Goff	Art Unit 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 51-72 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 51-72 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 February 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to the amendment filed on 11/17/09.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

3. Claims 51-72 and are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.
4. Claim 51 requires “a body that houses at least one battery, the body being at least partially movable within the sleeve”. Claim 60 requires the same. Applicants specification describes the batteries (69) are housed in a slidable sleeve (64) movable within a body (84) (Figure 5 and Page 18). It appears the limitations to the body and the sleeve in the claims should be reversed.
5. Claim 51 requires “a heater element coupled to a holder, the holder being coupled to the body”. Claim 60 requires the same. Applicants specification describes the heater element (76) attached to a holder (65, 66), and the holder is attached to the sleeve (64) not the body.
6. Claim 55 requires “wherein the holder is slidably coupled to the body and structured such that the heater element may be disposed between the pair of clamps based on movement of the

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body”. Claim 63 requires the same. Applicants specification describes the holder (65, 66) is attached to the sleeve (64) not the body and moves with the sleeve based on movement of the sleeve not the body. There is no description that the holder is slidably coupled to the sleeve.

7. Claim 56 requires “based on movement of the body” wherein applicants specification describes movement of the sleeve (64) not the body. Claim 64 requires the same.

8. Claim 57 requires “an end cap threadably coupled to the body”. Applicants specification describes the end cap (67) threadably coupled to the sleeve (64) not the body. Claim 65 requires the same.

9. Claim 60 requires “the pair of clamps being coupled to and extending beyond an axial end of the sleeve”. Applicants specification describes the clamps (79 and 83) as coupled to the body (35) not the sleeve.

10. Claim 68 requires “turning adjustment screws between first clamp bodies and second clamp bodies of the clamping mechanism to move the first clamp bodies toward the second clamp bodies and thereby retain the workpiece parts”. Applicants specification describes turning an adjustment screw (74) not screws to move the clamp bodies toward each other.

11. Claim 72 requires “axially moving a body connected to the heater element within a sleeve of the handheld welder until the heater element is disposed away from an area between the workpiece parts”. Applicants specification describes moving a sleeve (64) not a body connected to the heater element (76) within a body (84) of the handheld welder.

12. Claims 51-59 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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13. Claim 51 recites the limitation "the at least one clamp" in line 8. There is insufficient antecedent basis for this limitation in the claim.

14. Claim 55 requires "wherein the holder is slidably coupled to the body and structured such that the heater element may be disposed between the pair of clamps based on movement of the body". It is unclear what is required by slidably coupled. If the holder is attached to the body and moves with the body based on movement of the body as required it is unclear how the holder is slidably attached to the body as it appears the holder must be attached as stationary relative to the body otherwise the holder would not move the heater element based on movement of the body to position the element between the pair of clamps as described in applicants specification and required by the claims.

Claim Rejections - 35 USC § 103

15. Claims 68-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (U.S. Patent 5,690,776) in view of any one of Crispin (U.S. Patent 2,901,012), Fox (U.S. Patent 5,860,197), or Riley et al. (U.S. Patent 4,221,419).

Anderson discloses a method and hand held device for welding parts of an endless belt comprising inserting workpiece parts of free ends of an endless belt between first and second clamp bodies, moving a heater wand/element between the workpiece parts, moving the clamp bodies toward each other retaining the free ends in juxtaposition, moving the workpiece parts against the heater element with the heater element activated until the workpiece parts are at least partially melted, moving the workpiece parts away from the heater element after the parts are at least partially melted, removing the heater element from between the workpiece parts, and

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moving the workpiece parts into engagement with one another to weld the parts together (Figures 1 and 2 and Column 1, lines 34-46 and Column 3, lines 55-57 and Column 4, lines 11-33 and Column 4, lines 55-67 and Column 5, lines 1-5 and Column 6, lines 38-67 Column 7, lines 35-36 and Column 8, lines 26-64). Anderson is silent as to moving the clamp bodies toward each other by turning an adjustment screw, it being noted screws (plural) is considered new matter as more fully set forth above. Anderson teaches moving by a spring tensioned screw. However, there is no criticality in Anderson as to the means for moving the clamp bodies only that the means be capable of moving the clamp bodies towards or away from each other including stopping at different distances between the two. It is well known in the art to move two halves of a pair of clamping means towards or away from each other including the capability of stopping at different distances between the two using a threaded adjustment screw that is threaded right and left hand on opposite ends of the threaded screw each threaded end received in corresponding right and left hand threads of the pair of clamping means whereby turning the threaded rod by a knob moves the two halves of the pair of clamping means towards or away from each other as evidenced by Crispin (Figure 1), Fox (Figure 1), and Riley (Figure 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to move the clamp bodies in Anderson using any well known mechanical means such as by turning an adjustment screw as shown by Crispin, Fox, or Riley as only the expected mechanical result would be achieved.

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16. Claims 51-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson as modified above in paragraph 15, and further in view of Sakamoto (U.S. Patent Application Publication 2003/0015512), Chou (U.S. Patent 5,374,806), and Wolcott (U.S. Patent 1,649,882).

Anderson as modified above teaches a handheld welder comprising a heater wand/element, a pair of clamps that each include a first portion and a second portion, and a screw threadably connected the clamps and capable of moving the clamps toward each other and toward the heater element when the element is placed between the clamps. Anderson does not describe the heater wand/element with any specificity or criticality. It is well known in the art that a simple and inexpensive handheld and battery-operated heater wand/element for welding is a heater element (2) coupled to a holder (1) coupled to a body/sleeve (9) as evidenced by Sakamoto (Figures 1 and 6 and Paragraphs 0008, 0024, 0032, and 0037). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use as the heater wand/element in Anderson the simple and inexpensive handheld heater wand/element taught by Sakamoto.

It is not expressly clear that Sakamoto teaches the body/sleeve houses the at least one battery as although the disclosure of using a battery is in the same paragraph as discussion of the handle there is no express disclosure of such (Paragraph 0032). However, there is not any criticality as to where the battery is housed, and the only location suitable on the heater wand/element is the body/sleeve (9). Further, it is extremely well known in the art of cordless hand held battery operated devices to house the batteries within the body/sleeve of the device serving as the handle as evidenced by Chou (Figure 1) or Wolcott including using a cap (3) threadably coupled to the body/sleeve and a switch (10) for electrically activating the battery as

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expressly evidenced by Wolcott (Figure 1 and Page 1, line 55 to 106). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include in Anderson as modified well known and suitable means for housing the at least one battery within the body/sleeve (9) as shown by Chou or Wolcott such that the heater wand/element is cordless and regarding claim 57 it would have been obvious to use the specific means for securing the battery and means for activating the at least one battery as shown by Wolcott only the expected results being achieved.

Sakamoto is silent as to the body/sleeve as moveable within a separate body/sleeve. It is well known in the art of a heating element similar to that taught by Sakamoto to house the element (52) in a protective sleeve/body (7) slid/moved over the body/sleeve (30) coupled to the element as shown by Chou (Figure 1 and Column 3, lines 21-25). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include in Anderson as modified a sleeve/body for the heater element as shown by Chou wherein the sleeve/body is slidable/moveable over the heater element, holder, and body/sleeve to protect the element when not in use.

Regarding claim 54, Anderson teaches guide rods (84) and Fox teaches guide rods (28, 29) disposed on opposite side of the screw and extending through the clamps.

Regarding claims 55 and 56, the holder (1) taught by Anderson as modified is coupled to the body/sleeve (9) and structured as part of a handle such that the heater element may be disposed between the pair of clamps based on movement of the body/sleeve (9). The holder is further structured again as part of a handle such that the heater element may be disposed away from an area between the pair of clamps based on movement of the body/sleeve (9). As to

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“slidably coupled”, the 35 USC 112 rejections are noted above wherein the holder is considered slidably coupled to the body for purposes of examination so long as the holder moves with the body/sleeve such as in Anderson as modified.

Regarding claim 59, Anderson teaches the pair of clamps each include at least one groove for receiving a workpiece (Figure 2).

17. Claim 72 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson as modified above in paragraph 15, and further in view of Sakamoto and Chou.

Regarding claim 72, Anderson as modified above in paragraph 15 is further modified by Sakamoto and Chou for the same reasons as in paragraph 16 except for a teaching regarding location of the battery wherein Anderson as modified thus teaches axially moving the body/sleeve (9) connected to the heater element within a sleeve/body (7) of the handheld welder to protect the element is at an area away from between the workpiece parts, i.e until the heater element is disposed away from an area between the workpiece parts.

Allowable Subject Matter

18. Claims 60-67 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 1st and 2nd paragraph, set forth in this Office action.

For example claim 60 should read as follows to overcome the rejections above:

- - A handheld welder, comprising:

a ~~sleeve~~-body;

a ~~body~~-sleeve that houses at least one battery, the ~~body~~-sleeve being at least partially movable within the ~~sleeve~~-body;

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a heater element being coupled to a holder, the holder being coupled to the ~~body~~-sleeve;
and

a pair of clamps each including a first portion and a second portion, the pair of clamps being coupled to and extending beyond an axial end of the ~~sleeve~~-body. - -.

19. The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record fails to teach or suggest a handheld welder comprising the combination of a body with a pair of clamps coupled to and extending beyond an axial end of the body and a sleeve moveable within the body wherein the sleeve houses at least one battery and the sleeve is coupled to a holder that is coupled to a heating element.

Response to Arguments

20. Applicant's arguments with respect to claims 51-72 have been considered but are moot in view of the new ground(s) of rejection.

The new limitations are fully addressed above.

Conclusion

21. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **John L. Goff** whose telephone number is **(571)272-1216**. The examiner can normally be reached on M-F (7:15 AM - 3:45 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John L. Goff/
Primary Examiner, Art Unit 1791